

**PROCEDURES FOR PROCESSING REQUESTS  
FOR REASONABLE ACCOMMODATION**

**CHAPTER 5  
AVENUES FOR REDRESS**

I. Alternative Dispute Resolution (ADR)

A. USE OF ADR: Activities and employees are encouraged to consider the use of ADR at any stage of the reasonable accommodation process to resolve any conflicts and issues in controversy at the lowest possible level. See Chapter 4 for more information on the ADR process.

B. USE OF ADR WHEN REQUEST FOR ACCOMMODATION HAS BEEN DENIED: An employee, whose request for reasonable accommodation has been denied by the activity, will be offered the opportunity to use ADR as an avenue of redress.

1. The denial letter must inform the employee that he/she has 14 calendar days from receipt of the decision to request ADR.

2. ADR requests will be processed in accordance with the activity's standard procedures for ADR.

C. IMPACT ON EMPLOYEE'S OTHER AVENUES OF REDRESS:

1. If the employee elects another avenue for redress, the parties are not precluded from utilizing ADR in that forum.

2. The employee's election to utilize ADR will not count as a timely filing for any other avenue of redress that the employee subsequently elects to file, i.e., negotiated grievance and/or discrimination complaint. However, if the ADR process does not result in successful resolution of the reasonable accommodation dispute, and the employee desires to further pursue this dispute by filing a request for reconsideration, he/she may do so but must file the request within 14 calendar days after the conclusion of the ADR process in order for the request for reconsideration to be considered timely.

II. REQUEST FOR RECONSIDERATION

A. RECONSIDERATION PROCESS: An employee, whose request for reasonable accommodation has been denied by the activity, will be offered the opportunity to request reconsideration of the decision.

1. The denial letter must inform the employee that he/she has 14 calendar days from receipt of the decision, or if the issue is not resolved in the ADR process, within 14 calendar days of the conclusion of the ADR process, to submit a request for reconsideration to the deciding official.

2. The activity is responsible for determining the appropriate level of management for designation as the deciding official in reasonable accommodation cases.

3. The deciding official will issue a decision on the request for reconsideration within 21 calendar days of receipt of the request.

4. The deciding official's decision will be issued in writing and specify the reason(s) for his/her decision.

B. IMPACT ON EMPLOYEE'S OTHER AVENUES OF REDRESS: The employee's election to utilize the reconsideration process will not count as a timely filing for any other avenue of redress that the employee subsequently elects to file, i.e., negotiated grievance and/or discrimination complaint.

### III. NEGOTIATED GRIEVANCE

A. APPLICABILITY: A bargaining unit employee, whose request for reasonable accommodation has been denied by the activity, will be advised of their right to file a negotiated grievance if this matter is not excluded under the collective bargaining agreement.

B. NEGOTIATED GRIEVANCE PROCEDURES: The denial letter will advise the employee of his/her entitlement to file a negotiated grievance in accordance with the provisions of the applicable local collective bargaining agreement.

C. IMPACT ON EMPLOYEE'S OTHER AVENUES OF REDRESS:

1. The employee's election to utilize the negotiated grievance procedure will not count as a timely filing for any other avenue of redress that the employee subsequently elects to file, i.e., request for reconsideration and/or discrimination complaint.

2. Per the provisions of 29 CFR 1614.301, when a person is employed by an agency subject to 5 U.S.C. 7121(d) and is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to raise the matter under either 1614 or the negotiated grievance procedure, **but not both**.

3. An election to proceed under 29 CFR 1614.301 is indicated by the filing of a written complaint; use of the pre-complaint procedures does not constitute an election for the purposes of 1614.301.

#### IV. DISCRIMINATION COMPLAINTS

A. DISCRIMINATION COMPLAINT PROCEDURES: An individual, whose request for reasonable accommodation has been denied by the activity, will be advised of their right to file an informal discrimination complaint in accordance with the provisions of 29 CFR 1614.

1. The denial letter will advise the individual of the requirement to initiate contact with an EEO Counselor within 45 days of the date the request was denied.

2. The denial letter will also include information on how to contact an EEO Counselor.

B. IMPACT ON EMPLOYEE'S OTHER AVENUES OF REDRESS: The following information applies if an employee elects to file both an informal discrimination complaint and to exercise their option to pursue another avenue of redress.

1. Negotiated Grievance: Per the provisions of 29 CFR 1614.301, when a person is employed by an agency subject to 5 U.S.C. 7121(d) and is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to

raise the matter under either 1614 or the negotiated grievance procedure, **but not both**. An election to proceed under 29 CFR 1614.301 is indicated by the filing of a written complaint; use of the pre-complaint procedures does not constitute an election for the purposes of 1614.301. Thus, if the employee files a grievance under the collective bargaining agreement before they file a formal complaint of discrimination, that constitutes an election of the grievance forum and the formal discrimination complaint will be dismissed pursuant to 29 C.F.R. 1614.107(a)(4).

2. Request for Reconsideration: Employees may submit a request for reconsideration and initiate an informal discrimination complaint at the same time. However, each action must be filed within the applicable timeframes of these forums.

V. NOTICE TO EMPLOYEE OF AVENUES OF REDRESS

Individuals will be advised of all applicable avenues of redress, as described above, if their request for accommodation is denied by the activity.